

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

VANTREASE FRAZIER

PLAINTIFF

VS.

CIVIL ACTION NO. 5:21-cv-7-DCB-FKB

VICTORIA CARTER, Detective

DEFENDANT

Order Adopting Report and Recommendation

This matter is before the Court on Magistrate Judge F . Keith Ball's Report and Recommendation [ECF No. 33] (the "R&R"), which addresses Defendant Victoria Carter's ("Defendant")'s two Motions to Dismiss or, Alternatively to Stay Proceedings [ECF Nos. 21 & 22].¹ In response to the R&R, Plaintiff Vantrease Frazier ("Plaintiff") filed with the Court a handwritten letter dated February 17, 2022, which appears to be signed by Plaintiff and is titled: "This letter is in Regards of Judge F. Keith Ball Report & Recommendations". [ECF Nos. 34 and 35]. The letter states: "I Vantrease Frazier have no objections to the proposed findings, conclusion and recommendations contain within the reports." Id. Defendant filed no objections to, or other response regarding, the R&R, and the deadline for doing so has passed. Having reviewed

¹ The R&R notes that the two motions [ECF Nos. 21 & 22] are identical, as are the supporting rebuttals filed at ECF Nos. 28 and 29. R&R at n.1. The two motions are separately docketed as a Motion to Dismiss [ECF No. 21] and a Motion to Stay Proceedings [ECF No. 22].

the R&R, the parties' submissions, the record, applicable law, and being otherwise informed of the premises, the Court finds the R&R to be well-taken and adopts the findings and conclusions of the R&R as its own.

While Plaintiff's civil action under 42 U.S.C. § 1983 has been pending in this Court, a criminal prosecution against Plaintiff in the Circuit Court of Pike County, Mississippi also has been proceeding. R&R at 3. The Court agrees with Magistrate Judge Ball that it is appropriate in this case to stay Plaintiff's civil action in this Court pending the termination of the state court criminal proceedings against Plaintiff. See Wallace v. Kato, 549 U.S. 384, 393-94 (2007); see also, e.g., Willis v. City of Hattiesburg, Civil Action No. 2:14-cv-89-KS-MTP, 2015 WL 13651763, at *3 (S.D. Miss. Jan. 30, 2015). In reaching this decision, the Court has given consideration to the fact that no party in this action has objected to the proposed stay or to any of the findings, conclusions and recommendations in the R&R.

Accordingly,

IT IS HEREBY ORDERED AND ADJUDGED that Magistrate Judge F. Keith Ball's Report and Recommendation [ECF No. 33] is **ADOPTED** as the findings and conclusions of this Court;

IT IS FURTHER ORDERED that Defendant's Motion to Stay [ECF No. 22] is **GRANTED** and that this action is **STAYED** pending the

termination of the state court criminal proceedings against Plaintiff;

IT IS FURTHER ORDERED that Plaintiff is required to file with the Clerk of this Court a motion to lift the stay of this civil action within 30 days of the termination of the state court criminal proceedings against him; and

IT IS FURTHER ORDERED THAT Defendant's Motion to Dismiss [ECF No. 21] is **DENIED** without prejudice.

The Clerk of Court is hereby directed to mark this action as closed for statistical purposes during the pendency of the stay granted herein.

SO ORDERED AND ADJUDGED this the 22nd day of March 2022.

/s/ David Bramlette
UNITED STATES DISTRICT COURT